

Remarks

In view of the following remarks, reconsideration and allowance of the claims are requested. Claims 1-14 and 39-42 are pending with claims 1, 3, and 39 being independent. Claims 15-38 are withdrawn. No claims are amended. No new matter is added.

In particular, should the Office desire to maintain its outstanding rejections in view of the below, Applicants respectfully request an interview with the Examiner at a date and time convenient for the Examiner. The Examiner may contact Applicants' representative at the number given below.

Rejections under 35 U.S.C. 102(b)

Claims 1-6, 13, and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Publication Number 2002/0138009 to Brockway et al. Brockway et al. disclose a sensor and a wireless communication circuit disposed in the heart chamber. The communication circuit is coupled to the sensor and transmits information to a receiver outside of the heart chamber.

Brockway et al. fail to disclose the first and second electrodes are installed on the surface of the sensor or capsule type endoscope as in independent claims 1, 3, and 39. Claim 2 is dependent on independent claim 1. Claims 4, 5, 6, and 13 are dependent on independent claim 3. It is submitted that claims 1, 3, 13, and 39 are allowable as Brockway et al. do not disclose each and every element.

The Office states "Figure 4 of Brockway et al clearly shows electrodes 405 a, b on the exterior of a capsule device 400." (Office Action, p. 5) **However**, enlargement of Figures 4 and 5 of Brockway et al. actually shows that electrodes 405 a, b are within the capsule device, not on the surface of the sensor or capsule type endoscope as required by Applicants' claims 1, 3, and 39. **Furthermore**, paragraph [0019] of Brockway et al. discloses that the sensing apparatus includes a housing carrying the sensor and the communication circuit and at least one stabilizer that is coupled to the housing. Paragraph [0044] of Brockway et al. discloses a device 105 that includes a housing 300 carrying a sensor, such as pressure transducer 305, and a communication circuit 310. The electrodes of Brockway et al. are clearly carried within the housing of the sensing apparatus.

Accordingly, Claims 1, 3, and 39 and dependent claims 2, 4-6, and 13 are allowable, as Brockway et al. do not disclose each and every claimed element; thus not meeting the prima facie case of unpatentability. Applicants respectfully request reconsideration of the rejection under 35 U.S.C. 102(b) as being anticipated by U.S. Publication Number 2002/0138009 to Brockway et al.

The Office states “while the location of the electrodes on the sensor is not explicitly disclosed, Brockway et al not only states that structural changes can be made to the device without departure from the invention...” **Applicants submit** that such a statement in passing is no substitute for alleged teaching a specific structure as recited in instant claims. Without detailed analysis and supportive arguments, such conclusory statement is insufficient to maintain a rejection under 35 U.S.C. 102(b). Again, Claims 1, 3, and 39 and dependent claims 2, 4-6, and 13 are allowable, as Brockway et al. do not disclose each and every claimed element; thus not meeting the prima facie case of unpatentability.

Claims 1-3, 5, 13, and 39-40 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 5,914,701 to Gersheneld et al. Gersheneld et al. disclose a wireless system in which a transmitter and receiver are coupled through a user and room ground. The transmitter includes a signal generator and a pair of electrodes.

The electrodes of Gersheneld et al. are all placed on the exterior of the user’s body. Column 2, lines 60-65 of Gersheneld et al. disclose that the system passes information between carried or worn components of, for example, a paging system. In this configuration a user carries in his pocket a paging terminal that includes a transmitter. Column 3, lines 7-8 of Gersheneld et al. disclose an alternative configuration in which the system passes to a receiver that is worn or carried by a user. Column 4, lines 38-39 of Gersheneld et al. discloses that FIG. 1 depicts a user 10 who has attached to one arm 12 a transmitter 14 that consists of a signal generator 16...” Gersheneld et al. do not disclose a method for transmitting a signal from a sensor put in the human body to the outside of the human body.

The Office states that “though Gersheneld et al. doesn’t explicitly disclose the transmitting portion placed inside of the body, the device is still able to perform communication through the body and is therefore capable of performing the same functions if the transmitter of Gersheneld et al. is placed within the body.” Applicants strongly disagree with this assertion.

The Office is oversimplifying the complexity of a device that can be placed inside the human body. Gersheneld et al. discloses a system in which a transmitter carried or worn by a user passes signals to one or more nearby receivers. The transmitter of Gersheneld et al. does not necessarily pass signals through the human body to be received by a nearby receiver. Simply because a device can transmit across a room does not translate the safety or ability or even the applicability of a device safely transmitting specific signals through the human body.

As indicated previously by the Applicants, Gersheneld et al. do not disclose that the surface of the sensor is made of conductive material harmless to the human body. Clearly Gersheneld et al. does not provide an enabling disclosure of Applicants' claimed exemplary embodiments.

Additionally, Gersheneld et al. do not disclose transmitting electrodes installed on the surface of a sensor or capsule type endoscope. Applicants submit that the Examiner's argument is insufficient to maintain a rejection under 35 U.S.C. 102(b).

As such, it is respectfully submitted that independent claims 1, 3, and 39 and dependent claims 2, 5, 13, and 40 are allowable, as Gersheneld et al. do not disclose each and every claimed element; thus not meeting the prima facie case of unpatentability.

Rejections under 35 U.S.C. 103(a)

Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockway et al.

As discussed above, Brockway et al. fail to disclose that the first and second electrodes are installed on the surface of the sensor or capsule type endoscope as in independent claims 1, 3, and 39. The mere statement in passing that "structural, logical, and electrical changes may be made without departing from the spirit and the scope of the present invention" does not supplement the deficient disclosure of Brockway et al. The broad sweeping phrase, or the remainder of the Brockway et al. disclosure, does not teach or suggest to a person of ordinary skill in the art to, among other things, install the first and second electrodes on the surface of the sensor. Dependent claims 7-10 depend from dependent claim 6, which is dependent on independent claim 3. Claim 3 is allowable over Brockway et al. As such, it is respectfully submitted that claims 7-10 are allowable over Brockway et al.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockway et al. in view of U.S. Patent Number 6,165,178 to Bashiri et al. Bashiri et al. disclose an implant for placement in the human body and assembly for so placing that implant.

Bashiri et al. do not cure the deficiencies of Brockway et al. Neither reference teaches or discloses isolating the transmitting electrodes on the surface of the sensor. Claim 11 depends from independent claim 3, and claim 12 depends from claim 11. Claim 3 is allowable over Brockway et al. in view of Bashiri et al. It is respectfully submitted that claims 11 and 12 are allowable over Brockway et al in view of Bashiri et al.

Applicants note that Office did not specifically address the Applicants arguments in relation to the above rejection under 35 U.S.C. 103(a) as being unpatentable over Brockway et al. in view of U.S. Patent Number 6,165,178 to Bashiri et al. Should rejections be maintained, Applicants request the Office address every argument presented by the Applicants for each reference asserted by the Office in the Office Action.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brockway et al. in view of U.S. Patent Number 5,651,869 to Yoshioka et al. Yoshioka et al. disclose a biosensor that includes an electrically insulating substrate with an electrode system formed on the substrate which includes a working electrode and a counter electrode. A reaction is layer formed on the substrate or above the substrate with a space between. The reaction layer includes a pyranose-oxidizing enzyme.

Yoshioka et al. do not cure the deficiencies of Brockway et al. Neither reference teaches or discloses isolating the transmitting electrodes on the surface of the sensor. Claim 14 is indirectly dependent on independent claim 3. Claim 3 is allowable over Brockway et al. in view of Yoshioka et al. It is respectfully submitted that claim 14 is allowable over Brockway et al in view of Yoshioka et al.

Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockway et al. in view of U.S. Patent Number 4,267,415 to Holmes et al.

Holmes et al. are cited to compensate for the deficiency of the Brockway et al. disclosure in failing to teach how a low current is achieved. Holmes et al. disclose that the current interrupter is

placed on a power distribution line in parallel with a current limiting circuit adapted to rapidly reduce excessive current flow. The current limiting circuit includes a resistor in parallel with a capacitor. **However**, claim 41 claims the size of the current is limited by connecting resistance serially to the transmitting electrode respectively. Furthermore, claims 40 and 41 are depend, either directly or indirectly, from independent claim 39. Claim 39 is allowable over Brockway in view of Holmes et al. As such, it is submitted that claims 40 and 41 are allowable over Brockway et al. in view of Holmes et al.

If any of the above rejections are maintained by the Office, it is respectfully requested that the Office indicate which specific elements of alleged reference(s) describe or suggest each and every element recited in claims at issue, and detailed response to each and every arguments presented by Applicant, so that Applicant may fully respond.

Conclusion

It is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, there being no other objections or rejections, this application is in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: November 30, 2009

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